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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Beehive Telephone Company, Inc.  
Beehive Telephone, Inc. Nevada

Tariff F.C.C. No. 1

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CC Docket No. 97-237

Transmittal No. 6

To: Chief, Common Carrier Bureau

**MOTION FOR EXTENSION OF TIME**

1. Beehive Telephone Company, Inc. and Beehive Telephone, Inc., ("Beehive") through their attorneys, and pursuant to Section 1.46 of the Federal Communications Commission's Rules and Regulations, respectfully requests the Chief, Common Carrier Bureau ("Bureau") to grant Beehive an extension of time, up to and including December 18, 1997, in which to file its direct case addressing the issues in the Commission's Order Designating Issues For Investigation ("Designation Order"). In support thereof the following is respectfully shown:

2. On July 22, 1997, Beehive made a tariff filing under Transmittal No. 6 in which it proposed to revise its biennial access tariff and to change the terms and conditions to its provision of interstate access service. On July 29, 1997, AT&T Corp. ("AT&T") filed a petition asking the Commission to reject, or alternatively, investigate Beehive's Transmittal No. 6. Beehive file a response to AT&T's petition on August 4, 1997. Subsequently, on August 5, 1997, the Bureau's Competitive Pricing Division ("Division") issued the Beehive Tariff Suspension Order ("Suspension Order") in which it suspended for one day Beehive's Transmittal

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No. 6, instituted an investigation, and imposed an accounting order.<sup>1</sup> Additionally, the Division stated that it would issue a separate order designating the issues to be investigated.

3. Under Section 204 of the Communications Act of 1934, as amended, the Commission has authority to enter upon a hearing concerning the lawfulness of any new or revised charge, classification, regulation, or practice. The Commission is obligated to conclude its hearing within five months after the date that the charge, classification, regulation, or practice subject to the hearing becomes effective. See 47 U.S.C § 204(a)(2)(A). Accordingly, in this instance, the Commission has until January 6, 1997, to conclude its investigation of Beehive.

4. Almost four months after issuing the Suspension Order, with nearly one month left to conclude its investigation, the Bureau released its Designation Order. On December 2, 1997, the staff called counsel for Beehive to inform counsel that the Designation Order would be released on that day. However, the Designation Order was not made "available to the press and public in the Commission's Office of Public Affairs" on December 2, 1997. 47 C.F.R. § 1.4(b)(2). Instead, the Designation Order was made available on December 3, 1997. Therefore, although the Designation Order reflects a release date of December 2, 1997, it was not "released" for purposes of computing Beehive's filing deadline until December 3, 1997. Moreover, the Designation Order did not become effective until December 3, 1997. See 47 C.F.R. § 1.102(b)(1).

5. Under Section A, "Filing Schedules" of Part IV of the Designation Order, entitled "Procedural Matters," the Bureau states "Beehive shall file a direct case addressing each issue

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<sup>1</sup> Beehive Telephone Company, Inc. Tariff F.C.C. No. 1, Transmittal No. 6, Suspension Order, DA 97-1674, released August 5, 1997.

designated above no later than 15 days after release of this Order." Additionally, paragraph 14 of the "Ordering Clauses", states "IT IS FURTHER ORDERED THAT the Beehive Telephone Company, Inc. SHALL FILE a direct case addressing each issue designated above no later than 15 calendar days after the release of this Order." Pursuant to these sections of the Designation Order Beehive would have until December 18, 1997, in which to file its direct case.

6. From the text of the Designation Order there would be no question that the Bureau was providing Beehive 15 days in which to respond and that Beehive has until December 18, 1997 to make its filing. Unfortunately, the Designation Order contains an inconsistency as to the filing date for Beehive's direct case. In the caption of the Designation Order, under "Filing Schedules," December 12, 1997 is identified as the due date for Beehive's direct case. Based on the text of the Designation Order, Commission precedent, as well as the amount of information being requested from Beehive, it logically appeared that the captioned area of the Designation Order contained a typographical error. Beehive, therefore, reasonably relied on the explicit language of paragraph 14 of the Ordering Clauses of the Designation Order in calculating its due date. It was not until December 8, 1997, through discussions between the staff and Beehive's Telecommunications Management Consultants, that Beehive learned that its direct case was due on December 12, 1997, and not December 18, 1997.<sup>2</sup>

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<sup>2</sup> The Division has issued an erratum amending Section V of the Ordering Clauses, paragraphs 15, 16, and 17 establishing the pleading cycle. Paragraph 15 of the Designation Order now reads "IT IS FURTHER ORDERED THAT the Beehive Telephone Company, Inc. SHALL FILE a direct case addressing each issue designated above no later than December 12, 1997. Paragraph 16, now reads "IT IS FURTHER ORDERED that Pleadings responding to the direct cases SHALL BE FILED no later than December 19, 1997." Finally, paragraph 17 reads "IT IS FURTHER ORDERED that "rebuttals" to the opposition or comments may be filed no later than December 29, 1997." Beehive notes that the Division did not amend paragraphs 9, and 10 of the Designation Order, and therefore the inconsistency still remains.

7. Beehive recognizes that the Commission is under a statutory mandate to conclude its investigation. The Bureau should provide Beehive a reasonable time in which to compile and present the information requested. In the Designation Order, the Bureau requests that in its direct case Beehive "provide detailed cost data for calendar years 1994, 1995, and 1996 . . ." Designation Order at ¶ 7. Both the detail and amount of information requested from Beehive is substantial. Nine days is not a reasonable amount of time in which to respond. Beehive should not be penalized because the Commission's deadline is approaching. Moreover, it appears that fifteen days is the standard amount of time the Commission provides to other carriers subject to a designation order. See In the Matter of Ameritech Operating Companies, Order Designating Issues For Investigation, Transmittal No. 1040, DA 97-1879, released August 29, 1997. Beehive can not understand why it would be entitled to less time.<sup>3</sup>

8. The level of detail and the amount of information to be provided to the Commission coupled with the serious nature of this proceeding, requires that Beehive be provided additional time to file its direct case. Even directing all its resources to completing its direct case, it will be difficult for Beehive to file its case by December 18, 1997. It will be nearly impossible for Beehive to file fully its direct case on December 12, 1997. Finally, Beehive should not be penalized for the delay in making the Designation Order available as required by the Rules. See Power River Basin Resource Council and Media Access Project, 65 FCC 2d 973, 974 (1977).<sup>4</sup>

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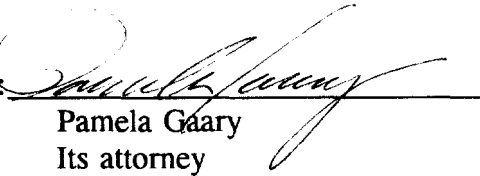
<sup>3</sup> Beehive notes, that, consistent with Commission precedent, AT&T is provided a full seven days to respond to Beehive's direct case.

<sup>4</sup> Counsel for AT&T has been notified that this Motion is being filed.

Good cause having been shown, Beehive requests the Commission to extend, until December 18, 1997, its time in which to file its direct case.

Respectfully submitted,

**BEEHIVE TELEPHONE COMPANY, INC.  
BEEHIVE TELEPHONE, INC. NEVADA**

By:   
Pamela Gaary  
Its attorney

**Lukas, McGowan, Nace & Gutierrez, Chartered**  
1111 19th Street, N.W., 12th Floor  
Washington, D.C. 20036

December 9, 1997

CERTIFICATE OF SERVICE

I, Katherine A. Baer, a secretary in the law offices of Lukas, McGowan, Nace & Gutierrez, Chartered, do hereby certify that I have on this 9th day of December, 1997, had copies of the foregoing MOTION FOR EXTENSION OF TIME hand-delivered to the following:

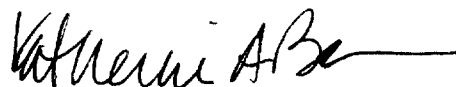
A. Richard Metzger, Jr., Chief  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, N. W., Room 500  
Washington, D. C. 20554

James D. Schlichting, Chief  
Competitive Pricing Division  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, N. W., Room 518  
Washington, D. C. 20554

Judith Nitsche, Chief  
Tariff and Price Analysis Branch  
Federal Communications Commission  
1919 M Street, N. W., Room 518  
Washington, D. C. 20554

Mr. James Lichford  
Mr. Dan Abeyta  
Tariff and Price Analysis Branch  
Federal Communications Commission  
1919 M Street, N. W., Room 518  
Washington, D. C. 20554

\*Peter Jacoby, Esquire  
Jodie Donovan-May, Esquire  
AT&T  
295 North Maple Avenue  
Room 3247G2  
Basking Ridge, New Jersey 07920



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Katherine A. Baer

\*Via Facsimile